

Message Text

PAGE 01 STATE 303735
ORIGIN NODS-00

INFO OCT-01 ISO-00 /001 R

66011
DRAFTED BY S/S-O:SGOLDSMITH
APPROVED BY S/S-O:SGOLDSMITH
-----117029 211731Z /47
O 211557Z DEC 77 ZFF4
FM SECSTATE WASHDC
TO WHITE HOUSE IMMEDIATE

S E C R E T STATE 303735

NODIS
FOR DR BRZEZINSKI

FOLLOWING REPEAT SEOUL 10794 ACTION SECSTATE 21 DEC 77

QUOTE

S E C R E T SEOUL 10749

EXDIS - DISTRIBUTE AS NODIS

E.O. 11652: GDS
TAGS: PGOV, KS, US
SUBJECT: TONGSUN PARK AFFAIR: MUTUAL PROSECUTION ASSISTANCE
AGREEMENT AND TONGSUN PARK LETTER

REF: A. STATE 303478; B. STATE 299475

SUMMARY: AMBASSADOR AND FONMIN HOLD DIFFICULT AND CONTENTIOUS
ONE AND ONE-HALF HOUR MEETING. DIFFICULT POINTS ON MPAA STILL
REMAIN, BUT SOLUTION APPEARS POSSIBLE. FORMAT OF TONGSUN
PARK LETTER CAUSING DIFFICULTY. FRIDAY TIMETABLE FOR
SIGNING JOINT STATEMENT MAY SLIP. END SUMMARY.
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1. I HELD VERY DIFFICULT HOUR AND ONE-HALF MEETING WITH
FONMIN LATE AFTERNOON DECEMBER 21. GIVEN HEAT AND INTENSITY
OF THIS DISCUSSION, IT IS APPARENT FONMIN IS HAVING DIFFICULTY
NOT ONLY WITH WORDING OF MPAA AND PARK LETTER, BUT THAT THESE
DIFFICULTIES ARE INCREASED BY OUR INSISTENCE ON FULL PACKAGE.
AS WE DISCUSSED VARIOUS STICKING POINTS, HE MADE CONTINUAL
REFERENCE TO FACT THAT ONCE JOINT STATEMENT ANNOUNCED, THERE
WAS NO WAY THAT ROKG COULD ALLOW ARRANGEMENTS TO FAIL.
IN THIS I SENSED THAT HIS HAND VIS-A-VIS OTHER MINISTRIES,
TONGSUN PARK, AND EVEN THE BLUE HOUSE IS WEAKENED BECAUSE

HE IS UNABLE TO REFER TO A SIGNED AND ANNOUNCED AGREEMENT,
EVEN THOUGH WE ARE NOW AGREED ON WORDING.

2. FONMIN BEGAN BY REQUESTING THAT TITLE OF MPAA BE
MADE MORE FORMAL AND READ AS FOLLOWS QUOTE MUTUAL
PROSECUTION ASSISTANCE AGREEMENT BETWEEN THE REPUBLIC
OF KOREA, MINISTRY OF JUSTICE AND THE UNITED STATES
DEPARTMENT OF JUSTICE CONCERNING TERMS AND CONDITIONS
FOR COMMUNICATING WITH MR. TONGSUN PARK END QUOTE.
I SAID THIS APPEARED ACCEPTABLE AND WOULD IN MY VIEW
OBTAIN THE NEED FOR THE PREAMBLE. FONMIN THEN MOVED
TO PARAGRAPH 4, DISCUSSING THE POINT COVERED EARLIER
IN THE DAY BY PAK/CLARK (DISCUSSED BELOW). I AGREED TO
SUPPORT THE INCLUSION OF WORDING FROM THE JOINT STATEMENT IN
THIS PARAGRAPH.

3. FONMIN THEN SAID HE HAD HAD LONG
DISCUSSION WITH THE JUSTICE MINISTER ON PARAGRAPHS
5, 6 AND 8 OF THE MPAA. RE PARAGRAPH 5, I STRESSED OUR INSISTENCE
THAT PARK ANSWER IN ENGLISH AND THAT THESE ANSWERS
BE PROVIDED WITHOUT DELAY. HE ASSURED ME THAT THIS
WAS FULLY UNDERSTOOD AND ACCEPTED BY THE ROK. HOWEVER,
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HE HAD DIFFICULT PROBLEMS IN FORCING TOTAL U.S. LANGUAGE
ON THE JUSTICE MINISTRY AND WE WORKED HARD TO ARRIVE
AT A FORMULATION WHICH WOULD GIVE US OUR ASSURANCE
AND APPEAR TO MAKE SOME MODIFICATION. AS A RESULT, I
AGREED TO REQUEST THE FOLLOWING LANGUAGE FOR PARAGRAPH 5
BE ACCEPTED BY WASHINGTON. QUOTE DURING THE SUBSEQUENT
INTERROGATION OF MR. TONGSUN PARK IN SEOUL, KOREA, THE
UNITED STATES DEPARTMENT OF JUSTICE PROSECUTOR WILL PUT
QUESTIONS TO MR. PARK IN ENGLISH AND MR. PARK WILL BE
EXPECTED TO ANSWER IN ENGLISH. MR. PARK'S ANSWERS TO
A PARTICULAR QUESTION WILL BE STATED WITHOUT DELAY AND
SIMULTANEOUS TRANSLATION INTO KOREAN OR ENGLISH WILL BE
EMPLOYED AS NEEDED. VERBATIM RECORD IN ENGLISH WILL BE
PROVIDED TO THE KOREAN PROSECUTION. END QUOTE. I BELIEVE
THIS LANGUAGE PROTECTS OUR INTEREST IN HAVING UNINTERRUPTED
INTERROGATION. WITH RESPECT TO PARAGRAPH 7, THE FONMIN SAID
THAT THEY WERE FULLY PREPARED TO GIVE US ORAL ASSURANCES THAT
QUESTIONS COULD BE PUT TO MR. PARK WITHOUT INTERRUPTION BUT THAT
INCLUSION OF THIS LANGUAGE IN AGREEMENT APPEARED
PERJURATIVE TO MOJ. AFTER DISCUSSING THE MATTER, I AGREED
TO RECOMMEND STRONGLY TO WASHINGTON THAT QUOTE WITHOUT
INTERRUPTION END QUOTE IN PARAGRAPH 6 BE REPLACED BY
QUOTE CONTINUOUSLY END QUOTE. THE FONMIN ASSURED ME
THAT THIS WOULD BE INTERPRETED AS WITHOUT INTERRUPTION
AND FULL ASSURANCES TO THAT EFFECT WOULD BE PROVIDED
TO DOJ BY MOJ AT THEIR PROPOSED MEETING.

4. RE PARAGRAPH 8, THE FONMIN TRIED LONG AND HARD, REPORTEDLY

AT THE BEHEST OF THE MINISTER OF JUSTICE, AND I BELIEVE OTHERS AS WELL, TO HAVE THE LANGUAGE IN THIS PARAGRAPH MODIFIED AS EARLIER REQUESTED. I WAS ADAMANT IN MY REFUSAL TO CONSIDER ANY CHANGE IN THIS WORDING. THE DISCUSSION WAS LONG AND HOT AND ONLY AFTER WE HAD AGREED TO MODIFICATIONS OF PARAGRAPHS 5 AND 6 AS PART OF A TOTAL ARRANGEMENT DID THE FONMIN RELEUCTANTLY AGREE TO MKAE HIS VERY BEST EFFORT TO CONVINCE THE MINISTRY OF JUSTICE

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TO ACCEPT THIS WORDING. I POINTED OUT THAT FAILING AGREEMENT ON THIS PARAGRAPH, WE COULD VERY WELL FAIL IN ANY AGREEMENT AT ALL.

5. THE FONMIN THEN BROUGHT UP PARAGRAPHS 14 AND 15 AND AGAIN EXPLAINED WHY THEY WERE NEEDED AS HAD BEEN DISCUSSED BY PAK/CLARK EARLIER. I AGREED TO SUPPORT RETENTION. REGARDING PARAGRAPH 11, THE FONMIN ALSO ASKED FOR MY SUPPORT TO THE EARLIER DISCUSSION BETWEEN PAK/CLARK, AND I AGREED.

6. I THEN RAISED THE REQUIRED LETTER FROM TONGSUN PARK AND THE REQUIRED ELEMENTS THEREOF. THE FONMIN SAID THAT INITIALLY WE HAD SOUGHT AGREEMENT TO A JOINT STATEMENT, THEN A LETTER FROM PARK, THEN AN MPAA. LATER WE HAD MODIFIED THIS TO HAVING ALL THREE ELEMENTS AT THE SAME TIME. FURTHER, WE HAD INITIALLY REQUESTED A LETTER FROM PARK STATING HIS WILLINGNESS TO GO TO THE UNITED STATES FOR TRIAL, LATER WE HAD MODIFIED THIS TO INSURE TRUTHFUL TESTIMONY AND POLYGRAPH EXAMINATION IN ADDITION. WITH REGARD TO PARK'S IMMUNITY AND DISMISSAL OF THE INDICTMENT, WE HAD INITIALLY BASED THIS UPON COMPLETION OF HIS TESTIMONY AT THE FINAL TRIAL, LATER WE HAD MODIFIED THIS TO TESTIMONY AND COOPERATION. EVERY TIME THE ROKG GOT TO ONE STAGE, IT SEEMED THAT THE UNITED STATES INCREASED THE CONDITIONS. I SAID THAT WE HAD MADE VERY CLEAR WHAT WE REQUIRED IN A LETTER FROM TONGSUN PARK. WE HAD NOT INCREASED THE CONDITIONS, BUT HAD SOUGHT EARNESTLY TO AVOID EMBARRASSMENT TO BOTH OUR GOVERNMENT THROUGH EITHER LACK OF AGREEMENT ON THE MPAA OR THROUGH LACK OF COOPERATION BY TONGSUN PARK. I POINTED OUT THAT THE BASIC PROBLEM WAS IN FACT OUR LACK OF TRUST IN MR. PARK AND HIS TRUTHFULNESS. THE FONMIN SAID THAT THE ROKG

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COULD NOT AFFORD TO ALLOW TONGSUN PARK TO BLOCK FULFILLMENT OF AN AGREEMENT BETWEEN OUR TWO GOVERNMENTS ONCE SUCH HAD BEEN PUBLICLY ANNOUNCED. THEN FOR THE FIRST TIME, WHICH IN GREAT PART EXPLAINED SOME OF OUR RECENT DIFFICULTIES, HE ADMITTED THERE WAS A DRAFT LETTER FROM

TONGSUN PARK. HE DID NOT HAVE A COPY BUT BRIEFED ME ON ITS CONTENT. HE STATED IT WOULD SAY THAT PARK HAD BEEN FULLY BRIEFED ON THE NEGOTIATIONS BETWEEN THE TWO GOVERNMENTS, AND THAT HE INTENDED TO COOPERATE IN LIGHT OF THOSE AGREEMENTS. HE AGREED TO INTERROGATION IN SEOUL AND TRAVEL TO THE UNITED STATES AS A WITNESS. THE FONMIN SAID IN ADDITION THE LETTER SOUGHT ASSURANCES ON MANY OF THE POINTS AGREED BETWEEN US, BUT THAT IT ALSO INCLUDED REFERENCE TO PRIOR DISMISSAL OF THE INDICTMENT AND TO REMOVAL OF LIENS AGAINST PROPERTY IN THE UNITED STATES. I SAID THAT I, OF COURSE, COULD NOT COMMENT ON THE ACCEPTABILITY OF SUCH A LETTER WITHOUT HAVING SEEN THE TEXT. I WAS CONCERNED HOWEVER ABOUT ASSURANCES SOUGHT WHICH THE FONMIN REALIZED WE COULD NOT MEET. SPECIFICALLY, I STATED STRONGLY THAT PRIOR REMOVAL OF THE INDICTMENT AND ACTION ON PARK'S TAX QUESTIONS WERE NOT POSSIBLE AND THAT HIS LAWYERS WERE AWARE OF THIS. FONMIN ASSURED ME THAT THESE WERE ONLY ASSURANCES SOUGHT AND WERE NOT BINDING ON THE FULFILLMENT OF PARK UNDERTAKING TO COOPERATE IN BOTH INTERROGATION AND APPEARANCE AT TRIAL. I AGAIN STATED MY RELUCTANCE TO MAKE ANY JUDGMENT WITHOUT HAVING SEEN A FULL TEXT OF THE PROPOSED LETTER. FONMIN WAS VERY RELUCTANT TO PROVIDE THIS BUT AFTER FURTHER DISCUSSION AGREED TO HAVE A TRANSLATION IN MY HAND BY TOMORROW MORNING. BEFORE GIVING MY CONCLUSIONS, I WOULD LIKE TO COMPLETE ALL OF THE DISCUSSIONS ON THE MPAA BY REFERRING IN THE FOLLOWING PARAGRAPHS TO THE PAK/CLARK TALKS.

7. AT DISCUSSIONS EARLIER IN DAY, IN ADDITION TO POINTS SUBSEQUENTLY COVERED BY FONMIN AND MYSELF, PAK SANG YONG
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AND POLCOUNS CLARK DISCUSSED THE FOLLOWING MINOR POINTS STILL AT ISSUE. THEY ARE NOT, IN MY VIEW, SUBSTANTIVE AND SHOULD NOT IMPEDE OUR SIGNING OF JOINT STATEMENT.

PARA. 1: PAK FULLY UNDERSTANDS AND VIEWS LANGUAGE AS MAKING CLEAR THAT JOINT STATEMENT IS AN INTEGRAL PART OF MPAA. HE USED THIS LATER TO ARGUE FOR CHNAGE TO PARA. 4.

PARA. 4: PAK AGREED THAT WORDING ON IMMUNITY WAS REDUNDANT, BUT SAID THAT IN SOME INSTANCES REDUNDANCY WAS THE BEST COURSE. HE THEREFORE REQUESTED THAT LANGUAGE USED IN JOINT STATEMENT PARA.4. B. BE INCLUDED IN THIS PORTION OF MPAA. REQUEST IS THAT QUOTE TO PROVIDE HIM WITH FULL IMMUNITY FROM ANY PAST CRIMINAL CONDUCT AND....END QUOTE BE INSERTED BETWEEN QUOTE JUSTICE'S OFFER END QUOTE AND QUOTE TO SEE DISMISSAL END QUOTE. SINCE WE HAVE SAID THIS ONCE, EMBASSY SEES NO REASON NOT SAY IT AGAIN. EMBASSY ALSO NOTES

THAT QUOTE ANY END QUOTE APPEARS IN OUR TEXT AS VERIFIED
REF B. PAK ALSO AGAIN REQUESTED DELETION OF QUOTE
AND COOPERATION END QUOTE AT END OF SENTENCE. HE SAID
THIS WAS AN EXPANSION OF WORDING IN JOINT STATEMENT
AND COULD CAUSE MISUNDERSTANDING OF TERMS PROVIDED
TO TONGSUN PARK. AFTER ARGUMENTS BY POLCOUNS HE APPEARED
READY TO ACCEPT REFUSAL TO DELETE BUT ASKED FOR ONE
MORE TRY WITH WASHINGTON. FONMIN DID NOT PRESS THIS POINT HARD.

PARA. 9 AND PARA. 10: PAK AGAIN REQUESTED DELETION
OF QUOTE OR PERSONS END QUOTE IN BOTH PARAGRAPHS. HE
NOTED THAT WORDING IN NEW PARAGRAPH ONE COVERED THIS BY
INCLUDING PERSON IN UNITED STATES OFFICIALS THROUGH
USE OF THE HEREINAFTER REFERRED TO LANGUAGE. POLCOUNS
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SAID IT SOUNDED LIKE A LAWYER'S ARGUMENT BUT AGREED TO
AGAIN REQUEST DELETION.

PARA. 11: PAK POINTED OUT THAT ALL OF THE ARRANGE-
MENTS UNDER EXISTING AGREEMENTS CALLED FOR EXAMINATION
OF TONGSUN PARK IN SEOUL IN THE PRESENCE OF KOREAN
OFFICIALS. THE KOREAN SIDE DID NOT SEE HOW THE AGREE-
MENTS COULD BE USED IN ANY OTHER WAY WITH RESPECT TO
EXAMINATION AND THUS WISHED TO MAKE CLEAR THAT FURTHER
EXAMINATION WOULD ALSO BE IN SEOUL. HE WAS NOT
RESPONSIVE TO POLCOUNS ARGUMENTS AND REQUESTED FOLLOWING
WORDING BE ADDED TO END OF SENTENCE QUOTE FOR FURTHER
EXAMINATION IN SEOUL END QUOTE. IN ANY EVENT, KOREANS CONTROL
TRAVEL.

PARA. 14: POLCOUNS MADE ARGUMENTS PROVIDED REF A.
PAK RESPONDED THAT PARAGRAPH REFERRED TO MPAA, TRANSCRIPT
OF INTERROGATION AND ANY COMMUNICATION REGARDING EITHER
OF THESE. HE NOTED THAT PARAGRAPH 10 PROVIDED FOR USE
OF TRANSCRIPTS IN COURT, PARAGRAPH 12 PROVIDED FOR PROVISION
OF TRANSCRIPTS TO GRAND JURY AND PARA 13 ALLOWED FOR
PROVISION OF TRANSCRIPTS OR PORTIONS OF THEM TO CONGRESS.
BY ADDITION OF PARAGRAPH 14, ROKG WAS ONLY MAKING
EXPLICIT WHAT WAS IMPLICIT IN THE MPAA. HE WAS AWARE THAT
BRIEFING ON THE MPAAA WOULD BE REQUIRED BY BOTH SIDES. IN
EMBASSY VIEW, ROK IS SIMPLY ATTEMPTING TO GAIN ASSURANCE THAT
TONGSUN PARK TRANSCRIPTS DO NOT ENJOY WIDE DISTRIBUTION.
IT IS NOT ATTEMPTING TO BLOCK PROVISION OF TRANSCRIPTS
TO ANY COMMITTEE OF CONGRESS, AND IS NOT CONCERNED
OVER SEC INVESTIGATION. UNLESS WE INTEND TO MAKE USE
OF TRANSCRIPTS IN MANNER NOT ALREADY MADE CLEAR TO ROK,
EMBASSY FAILS TO UNDERSTAND WHY THIS PARAGRAPH CANNOT
BE ACCEPTED.

PARA. 15: PAK AGAIN URGED ACCEPTANCE OF THIS
PARAGRAPH. HE STRESSED THAT ROKG ONLY WISHED TO KNOW

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WHEN TRANSCRIPTS WERE PROVIDED TO GRAND JURY OR TO CONGRESSIONAL COMMITTEES IN ORDER TO PREPARE FOR POSSIBLE LEAKS. HE POINTED OUT THAT PARAGRAPH AS MODIFIED BY POWCOUNS AND AGREED TO BY MOJ NOW DID NOT PROVIDE ANY ROK CONTROL ON TIMING OF U.S. ACTIONS, BUT ONLY PROVIDED ROK WITH ADVANCE NOTICE. EMBASSY BELIEVES THAT ROK HAS LEGITIMATE CONCERN IN THIS MATTER AND SUPPORTS ROK REQUEST FOR INCLUSION THIS PARAGRAPH.

8. ON JOINT STATEMENT WORDING OF PARAGRAPH 5. B., PAK SAID MAIN CONCERN OF UNITED STATES WAS THAT PARK TONGSUN TRAVEL TO AND FROM FOR TESTIMONY. ROK NEEDED TO SHOW THAT HE WOULD RETURN TO KOREA AND THAT WAS BASIS FOR PROTRACTED NEGOTIATIONS ON PARAGRAPH 4. F. THE EMPHASIS ON QUOTE PRESENCE IN THE UNITED STATES END QUOTE IN PRESENT WORDING OF PARAGRAPH 5. B. BROUGHT THIS QUESTION INTO BUREAUCRATIC FOCUS HERE IN SEOUL. HE ACCEPTED US REFUSAL AS PROVIDED REF. A, BUT ASKED IF FOLLOWING WORDING FOR FINAL PHRASE WOULD NOT BE ACCEPTABLE QUOTE AND WILL TAKE ALL NECESSARY STEPS TO FACILITATE HIS TRAVEL FOR THIS PURPOSE END QUOTE. AFTER CHECKING WITH ME, POLCOUNS ACCEPTED THE NEW WORDING AD REFERENDUM.

9. COMMENT: IT WAS QUITE OBVIOUS TO ME THAT FONMIN IS UNDER SERIOUS PRESSURE, NOT ONLY BY THE JUSTICE MINISTRY AND TONGSUN PARK, BUT BY OTHERS AS WELL. NORMALLY GIVEN TO A NON-CONTENTIOUS STYLE, HE WAS TODAY FIRM AND DIRECT IN ARGUMENTATION. THIS CONTRIBUTED IN GOOD MEASURE TO THE HEAT AND LENGTH OF OUR DISCUSSION. WHILE HE IS WILLING TO FIGHT, AND FIGHT HARD, ON SOME POINTS, HE IS UNWILLING TO APPEAR ALWAYS TO BE ACCOMMODATING TO U.S. DEMANDS. I WOULD THEREFORE URGE STRONGLY
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THAT WE ATTEMPT WITH THE MPAA TO ACCOMMODATE HIS REQUEST WITH RESPECT TO CHANGES IN ORDER THAT HE CAN PREVAIL WITH RESPECT TO PARAGRAPH 8.

DEPENDING UPON THE TEXT OF PARK'S LETTER, WHICH I WILL TRANSMIT AS SOON AS RECEIVED, I URGE THAT WE RECOGNIZE ROKG ALSO HAS PROBLEMS AND THAT WE ACCEPT AT FULL VALUE ROKG ASSURANCES IT WILL NOT ALLOW OUR AGREEMENT TO FAIL THROUGH THE MACHIZATIONS OF TONGSUN PARK IN EVALUATING PARK'S LETTER.
SNEIDER.
UNQUOTE VANCE".

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Message Attributes

Automatic Decaptioning: Z
Capture Date: 22-Sep-1999 12:00:00 am
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: BRIBERY, AGREEMENTS, CAT-B, US CONGRESSIONAL HEARINGS, COURT
Control Number: n/a
Copy: SINGLE
Sent Date: 21-Dec-1977 12:00:00 am
Decaption Date: 22 May 2009
Decaption Note: 25 YEAR REVIEW
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 22 May 2009
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1977STATE303735
Document Source: ADS
Document Unique ID: 00
Drafter: S/S-O:SGOLDSMITH
Enclosure: n/a
Executive Order: 11652 GDS
Errors: n/a
Expiration:
Film Number: N770009-0429
Format: TEL
From: STATE
Handling Restrictions:
Image Path:
ISecure: 1
Legacy Key: link1977/newtext/t197712111/baaaaeusy.tel
Line Count: 328
Litigation Code IDs:
Litigation Codes:
Litigation History:
Locator: TEXT ON-LINE, TEXT ON MICROFILM
Message ID: 37f65dfc-c188-dd11-92da-001cc4696bcc
Office: ORIGIN NODS
Original Classification: SECRET
Original Handling Restrictions: NODIS EXDIS
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 6
Previous Channel Indicators:
Previous Classification: SECRET
Previous Handling Restrictions: NODIS EXDIS
Reference: n/a
Retention: 0
Review Action: RELEASED, APPROVED
Review Content Flags:
Review Date: 01-Mar-2005 12:00:00 am
Review Event:
Review Exemptions: n/a
Review Media Identifier:
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
SAS ID: 119754
Secure: LOCK1
Status: NATIVE
Subject: TONGSUN PARK AFFAIR: MUTUAL PROSECUTION ASSISTANCE
TAGS: PGOV, KS, US, (PARK TONG-SUN)
To: WHITE HOUSE
Type: TE
vdkgvwkey: odbc://SAS/SAS.dbo.SAS_Docs/37f65dfc-c188-dd11-92da-001cc4696bcc
Review Markings:
Margaret P. Grafeld
Declassified/Released
US Department of State
EO Systematic Review
22 May 2009
Markings: Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 22 May 2009